

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

JOHN ROBERT DEMOS, JR.,
Plaintiff

v.

UNITED STATES OF AMERICA,
Defendant

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File No. 1:08-CV-167

ORDER

The Magistrate Judge's Report and Recommendation was filed August 18, 2008. (Paper 2.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Plaintiff's motion to proceed *in forma pauperis* is DENIED and this case is hereby DISMISSED¹.

Pursuant to Fed. R. App. P. 22(b), the Court DENIES petitioner a certificate of appealability ("COA") because the petitioner failed to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). The Court rejects the petition on its merits because the petitioner has failed to demonstrate that reasonable jurists would find the Court's "assessment of the constitutional claims

¹ The Court notes that the United States Supreme Court has barred Demos from filing any further petitions for extraordinary writs, including petitions for writs of habeas corpus. In re Demos, 500 U.S. 16 (1991). Other courts have noted Demos's "long history of filing frivolous pleadings." Demos v. Reno, 159 F.3d 636 (Table) (D.C. Cir. 1998). Demos is hereby warned that future frivolous filings in this District may result in an injunction and, if necessary, sanctions.

debatable or wrong.” Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 11th day of September, 2008.

/s/ J. Garvan Murtha

J. Garvan Murtha
United States District Judge